

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT APPEAL NO.542 OF 2019

25.06.2019

Between:

Beri Eshwar

...Appellant

and

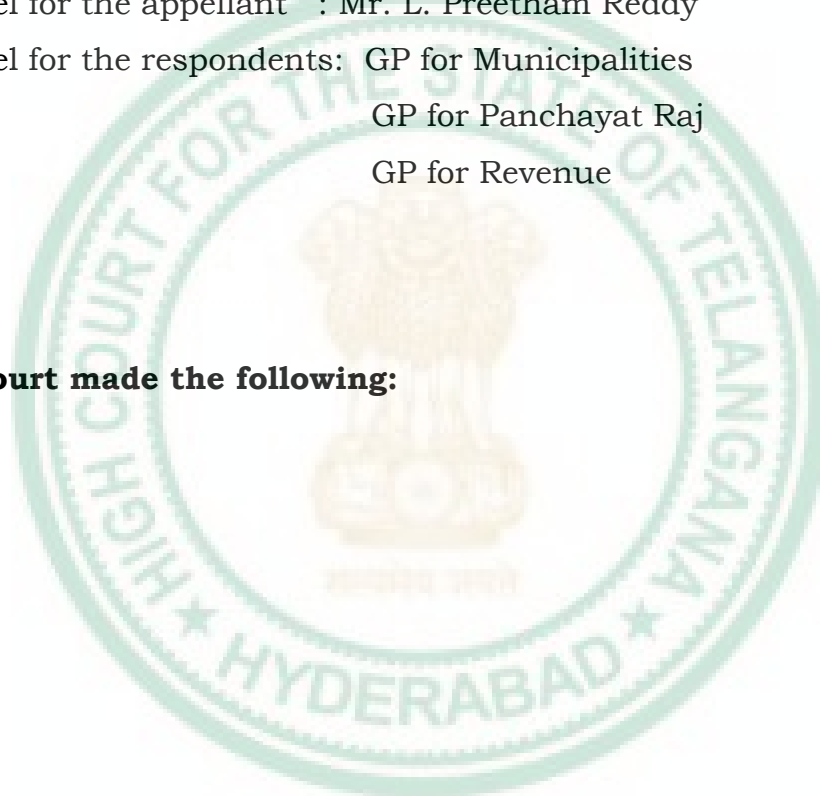
The State of Telangana and others

...Respondents

Counsel for the appellant : Mr. L. Preetham Reddy

Counsel for the respondents: GP for Municipalities
GP for Panchayat Raj
GP for Revenue

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellant has challenged the legality of the order dated 03.06.2019, passed by a learned Single Judge in W.P.No.10601 of 2019, whereby the learned Single Judge has dismissed the writ petition.

Briefly, the facts of the case are that the appellant belongs to the Scheduled Caste Community. In the General Elections held on 04.05.2014, he was elected as a Sarpanch of Gundlapochampally Gram Panchayat. The term of the Sarpanch was for five years. Therefore, his term ended on 03.05.2019. During his tenure as a Sarpanch, the appellant has carried out many constructions and projects which were completed. His work was, in fact, appreciated by different agencies and institutions. However, on 01.08.2018 the said Gram Panchayat was upgraded as a Municipality; the Tahsildar, Medchal, was appointed as the In-charge Municipal Commissioner of the newly created Municipality. Aggrieved by the appointment of the Tahsildar as the In-charge Municipal Commissioner, the appellant filed the writ petition before this Court. However, as mentioned above, by order dated 03.06.2019, the said writ petition has been dismissed. Hence, the present appeal before this Court.

Mr. L.Preetham Reddy, the learned counsel for the appellant, has raised the following two contentions before this Court:

Firstly, Section 7 of the Telangana Municipalities Act, 1965 ("the Municipalities Act" for short) and Section 136 of the Telagnana Panchayat Raj Act, 2018 ("the Panchayat Raj Act" for short) are similar to each other. While Section 7 of the Municipalities Act permits the Government to appoint a Special

Officer to exercise the powers, discharge the duties and perform the functions of the Council, likewise Section 136 of the Panchayat Raj Act permits the Government to appoint a Special Officer to exercise the powers and perform the functions of the Gram Panchayat. Therefore, as the appellant was the Sarpanch, he should have been appointed as the In-charge Municipal Commissioner of the newly created Municipality.

Secondly, since the appellant had undertaken the main projects, which were completed but could not be inaugurated due to operation of the Model Code of Conduct during the election period, the appellant should have been appointed as the In-charge Municipal Commissioner so as to permit him to inaugurate these projects after the Model Code of Conduct came to an end.

On the other hand, the learned Government Pleader submits that merely because Section 7 of the Municipalities Act and Section 136 of the Panchayat Raj Act are *mutatis mutandis*, the appellant is unjustified in claiming that he has a right to be appointed as the In-charge Municipal Commissioner.

Secondly, merely for his own self endorsement, the appellant cannot claim that he has a right to be appointed as the In-charge Municipal Commissioner.

Lastly, cogent reasons have been given by the learned Single Judge. Therefore, the learned Government Pleader has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

Even if Section 7 of the Municipalities Act and Section 136 of the Panchayat Raj Act are similar, it does not mean that the

provisions of the Panchayat Raj Act are telescoped into the Municipalities Act. The rule with regard to two provisions being *mutatis mutandis* is a rule of interpretation of Statutes. But, merely because two provisions are similar in nature, it would not bestow the right upon the appellant to claim that he should have been appointed as the In-charge Commissioner of the newly created Municipality.

Merely because the appellant wants his name to be written in golden letters, and to leave a legacy of the work done by him, he cannot claim that he has a civil and fundamental right to be appointed as the In-charge Commissioner of the Municipality. Therefore, both the arguments raised by the learned counsel for the appellant are clearly untenable.

For the reasons stated above, this Court does not find any merit in the present writ appeal; it is hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

DR. SHAMEEM AKTHER, J

25th June, 2019
JSU

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